

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

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UNITED STATES OF AMERICA

Plaintiff,

vs.

Case No. 1:19-CR-01631 KWR

KAMAL BHULA, JOHNATHAN CRAFT,  
WILLIE HORTON, OMRAM, LLC, EDDIE HILL,  
PRAGNESHKUMAR PATEL,

Defendants.

**ORDER FOR SUPPLEMENTAL BRIEFING**

THIS MATTER is before the Court following a status conference held on September 10, 2020. At the status conference, it was discussed whether appointment of counsel was necessary for OMRAM, LLC, a corporate defendant. The Court notes there are also multiple motions to sever.

Before ruling on the motions to sever, the Court directs the Government to answer whether intends to go to trial on counts against OMRAM, LLC, and whether OMRAM must be severed from trial if it is not represented by counsel. It appears that the Court cannot appoint counsel under the Sixth Amendment or the Criminal Justice Act for a corporate defendant. However, this may pose logistical challenges for trial, as it is unclear whether a corporate defendant can be tried in absentia. Fed. R. Crim. P. 43(b)(1); *United States v. Chaudary*, No. 12-20123-CM, 2012 WL 5877414, at \*2 (D. Kan. Oct. 30, 2012) (severing corporate defendant because a jury trial could not be held *in absentia*), *report and recommendation adopted*, No. 12-20123-CM, 2012 WL 5876698 (D. Kan. Nov. 20, 2012). The Ninth Circuit has stated that a district court cannot appoint

counsel for a corporate defendant using government funds. *United States v. Indep. Med. Servs., Inc.*, 804 F. App'x 787, 788 (9th Cir. 2020).

For a clear record, the Court directs the Government to file supplemental briefing as follows:

Whether the Court is required to appoint counsel for Defendant OMRAM, LLC for trial.

Whether the Court is permitted to appoint counsel for OMRAM.

Whether OMRAM has any funds to use for appointment of counsel.

Whether OMRAM's interests are adequately protected by another Defendant.

If OMRAM is not appointed counsel, whether the Court must sever OMRAM from trial.

The Government is directed to file a supplemental brief within **fourteen (14) days** of the entry of this order. Defendants may file optional responses within fourteen days of the filing of the Government's brief.

**IT IS SO ORDERED.**



KEA W. RIGGS  
UNITED STATES DISTRICT JUDGE